

State of Wisconsin@ DEPARTMENT OF REVENUE 0 DIVISION OF STATE AND LOCAL
FINANCE BUREAU OF UTILITY AND SPECIAL TAXES 0 P.O. BOX 8933 0 125 SOUTH WEBSTER
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REAL ESTATE TRANSFER NEWS November 1995

The following questions and answers are given as general interpretations of

the Wisconsin Administrative Code and Statutes. Should you have any questions,
please write to:

Bureau of Utility and Special Taxes Wisconsin Department of Revenue P.O. Box
8933

Madison, WI 53708-8933

1. Q. The 1995 Budget Bill (Act 27) requires the transfer fee form to include
an application for a lottery credit. What does this mean?

A. The budget bill alters the lottery tax credit precertification
procedures. We have attached a sample brochure that we plan to
distribute to taxpayers. It includes additional information on how to claim the
lottery credit using real estate transfer returns.

2. Q. If a Grantee checks the box "Primary Residence for Lottery Credit" must
the Tax Parcel Number be provided on line 11?

A. Yes. A completed Real Estate Transfer Return must include both items if it
is used as a claim for lottery credit. The parcel number can
most readily be obtained from the property tax bill at the time taxes are
prorated during the closing.

3. Q. How will the Real Estate Transfer Return be used as a lottery credit
claim form?

A. The County Treasurer must obtain information from the Return if the box
"Primary Residence for Lottery Credit" is checked. This should be done during
the year that the Return is filed. The information will then be provided to the
Department of Revenue for audit prior to the subsequent year's application of
lottery credit on property tax bills. For
example, returns filed during 1996 will be used to claim 1997 lottery credit.

4. Q. Will there be training by the Department of Revenue on these new lottery
credit procedures?

A. Yes! We plan to hold training sessions in late 1995 and in 1996 for County
Treasurers and Real Property Listers. Other training may be scheduled.

5. Q. Has the Wisconsin Department of Revenue taken a different position with respect to transfer of property between husband and wife?

A. Yes we have. In a conveyance between a husband and wife, consideration will not be a factor for purposes of claiming Exemption 8 [77.25(8)] where the spouse grantor remains the sole obligor on the mortgage note without an express assumption by the grantee spouse.

6. Q. The DOR at the last Register of Deed Association Meeting stated they would review and rewrite guidelines on conveyances of property which are subject to future construction contracts.

A. The DOR has not changed its opinion as disclosed in the Transfer Fee News, February 1984. Where the purchase of property is subject to a construction contract, the total price (value) is the basis of the transfer fee. The purchaser is buying a completed building.

The RETN (February 1984) questions 14-16 are reprinted here for your convenience:

"14. A has contracted with B., Construction Contractor, to build an apartment on A's property. A conveys his land to B for financing reasons. At the completion of the contract B conveys to A the land and building. Should a fee be paid on the conveyance from A to B; from B to A? No, each conveyance is exempt under s. 77.25(9), Stats.

15. A has contracted with B, Construction Contractor, to build an apartment on property owned by B. B conveys land to A and simultaneously signs a construction contract with A. Is there a fee due and if so on what basis? Yes, there is a fee due and the basis is the consideration given by A to B for the land and the constructed building.

16. Same facts as in question 15 above, except that B does not own the property but arranges to buy it for A pursuant to the construction contract. After the apartment is built a warranty deed is presented to A by B for C, the actual seller of the property. What is the basis for the fee? Same answer as above."

7. Q. What is the position of DOR where a vendor and vendee of an original land contract sign their respective interests over to a third party?

A. The effect of this conveyance merges all interests of the land contract with the third party. A fee is due on this sale. Also, if a fee was deferred on the original land contract (contract consummated prior to August 1, 1992), that fee is also due.

8. Q. Is the direct transfer from a limited partnership or general partnership to a limited liability company subject to a transfer fee?

A. Yes! However, exemption 15m (sec. 77.25(15m)) could be used provided a family relationship existed and the property was conveyed to the partners with the partners reconveying their property into the new entity - the limited liability company. An entity-to-entity conveyance has always been subject to the fee.

RJS:jmo

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Attachment